IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8375 of 1997
with
CIVIL APPLICATION No.11502/1997 in SCA No.8375/1997

For Approval and Signature:

HON'BLE MR.JUSTICE JAYANT PATEL

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

JAYASHRIBEN SURYAKANTBHAI GOKHANI

Versus

STATE OF GUJARAT

Appearance:
1. Special Civil Application No. 8375 of 1997
MR JJ YAJNIK for Petitioner No. 1
GOVERNMENT PLEADER for Respondent No. 1
RULE SERVED for Respondent No. 2-3,5-6
MR VD PARGHI for Respondent No. 4

CORAM : HON'BLE MR.JUSTICE JAYANT PATEL

Date of decision: 06/09/2004

ORAL JUDGEMENT

1. The petitioner has preferred this petition challenging the order dated 15.11.1997 passed by the Director of Municipalities in purported exercise of power under Section 37 of the Act, whereby the petitioner is removed as Councillor under Section 37 of the Gujarat Municipalities Act and the post of the petitioner as Councillor is declared as vacant.

2. It appears that, as stated by the petitioner in the petition, the petitioner came to be elected in the year 1994 as the Councillor of Morbi Municipality and during the tenure as Councillor of the Municipality, the impugned order came to be passed. The statutory term of elected Councillor of a Municipality is for five years and, therefore, by afflux of time, the statutory term of the petitioner is over in the year 1999. It further appears that in this petition initially on 21.11.1997 this Court had issued notice and ad-interim was granted permitting the petitioner to act as the Councillor of the Municipality. The said ad-interim relief came to be confirmed on 31.7.1998 when the petition was admitted. Therefore, in pursuance of the interim order passed by this Court, the petitioner has continued to function as the Councillor of the Municipality. As, even otherwise also the statutory term of the petitioner as the Councillor of the Municipality is over as back as in the year 1999, no useful purpose would be served in deciding the issues which are raised in this petition. Since as per the settled legal position, the Court would not undertake the exercise of rendering decision for academic purpose. Even if the matter is considered that the effect of the order under Section 37 of the Act may operate as disqualification for a period of four years as per Section 11(1)(a)(ii) of the Gujarat Municipalities Act, then also the said period of four years is over in the year 2003. Under these circumstances, the present petition has become infructuous by afflux of time and hence the same is disposed of accordingly as having become infructuous. Rule discharged. Ad-interim relief stands vacated.

3. In view of the order passed in the main Special Civil Application, the Civil Application would not survive and shall stand disposed of accordingly.

6.9.2004 (Jayant Patel, J.)

vinod